

A Meeting of the Zoning Board of Appeals for the Town of Moreau, Saratoga County, State of New York was held at the Moreau Town Hall, 351 Reynolds Road, Moreau, NY 12828 on the 27th day of September, 2018 at 7:00 PM.

**ZONING BOARD MEMBERS PRESENT**

Gerhard Endal, Chair

Kevin Elms

Scott Fitzsimmons

Matthew Manning

Not present: John England

The Board reviewed the minutes of the August 29, 2018 meeting. Motion to approve was made by Mr. Fitzsimmons and seconded by Mr. Elms. All in favor, motion carries with no roll call and Mr. Endal abstaining.

**APPEAL NO. 810**

A request of Bryan Park of 4 Terry Drive, South Glens Falls, NY 12803 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59 (A) and Town Law 267-b. Applicant is requesting to construct a carport the will not meet the required front yard setback in an R-1, One Family Residential Zoning District. This property is designated as 50.62-1-2 on the Town Assessment Map.

Mr. Park would like to install a covered car park with a vertical metal roof because he turned his garage into a living room and now he wants to protect his cars from the elements.

Mr. Park had said that the structure was not permanent, but Mr. Martin stated that since it would be anchored to the ground it was considered permanent per the Code. Mr. Park showed the Board a picture. He is buying this from his neighbor who is a sales representative.

Mr. Park stated that it will be 22 ft. from the side of the road. Mr. Martin said that the house is exactly 30ft from the line, just making the setback, and that is what he used to determine amount of the variance. This going up over the existing paved driveway. This makes other locations less feasible. Perpendicular to the house was not as desirable. Using the other side of the house would eliminate access to the septic for pumping and the pool for maintenance.

Mr. Martin noted that this design does not preclude access to the back yard.

Mr. Elms did find it concerning that it is so close to the road. Mr. Park said he has trees that are that close to the road. Mr. Elms felt that the setbacks exist for a reason. One of the concerns would be since it is not enclosed, he would like to stipulate that it can't be enclosed in the future. Mr. Martin agreed that the impact is mitigated by being able to see through it.

Mr. Endal explained that there are standards, and that substantiality would be an issue here because the

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Board has traditionally used 50% as a guideline. He is asking for 8 ft. from the road.

Chairman Endal observed that Terry Road probably won't get wider.

Mr. Martin had measured from the property line while Mr. Park had measured from the edge of the pavement. Mr. Martin did concede that the exact location of the property line is difficult to say.

He uses the worst case scenario when he can't tell.

Mr. Park explained that he usually has 4 vehicles in his driveway, and this will only cover the front two.

The Board determined that the driveway is probably 40 ft long.

Mr. Martin suggested that the Board could also use a stipulation about the edge of the blacktop in the Resolution.

The Board discussed whether they wanted to get exact distances or use some other method to determine the best measure of how much variance would be needed.

Mr. Martin reminded the Board to include the overhang, which Mr. Park thought was about 6 inches. Mr. Martin recommended 20 ft.

Mr. Elms explained that the Board is amending the rules when they do this and the Town sets the rules for a reason, and that is why they have to be very careful. The Board reviewed the following criteria for granting an Area Variance:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (3) whether the requested area variance is substantial;
- (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

SEQR review was not required.

Mr. Elms motioned to grant Appeal No. 810 for up to twenty –two feet relief on the front setback for an open air carport with no walls with the stipulation that the sides never be enclosed. The carport should be no closer than 20 feet from the current pavement, which the Board believes approximates the size of the variance. Mr. Fitzsimmons seconded. Roll call vote resulted as follows: Mr. Manning, Yes; Mr. Fitzsimmons, Yes; Mr. Elms, Yes; Chairman Endal, Yes. All in favor, motion carried.

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Mr. Park can come in and apply for his permit tomorrow and most likely get his building permit next week.

Motion to adjourn was made at 7:28 pm by Mr. Endal and seconded by Mr. Elms. All in favor, motion carried with no roll call.

Respectfully submitted,

Tricia S. Andrews